

ASSOCIATION OF FIRE DISTRICTS OF THE STATE OF NEW YORK

"Serving Fire District Officers Through Education & Legislation"

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VOLUNTEER FIREFIGHTER TRAINING STIPEND PROGRAM REGULATIONS PROPOSED BY OFPC

In the spring of 2023, the Legislature and Governor collaborated during the budget proceedings to establish a volunteer firefighter training incentive (training stipend) to assist local governments for recruiting and retaining volunteer firefighters. The program and process involved two key steps. Initially, budget allocations were designated to support the program, overseen at the state level by the Office of Fire Prevention and Control ["OFPC"]. These funds enabled the creation, management, and disbursement of stipends. Additionally, a new provision, General Municipal Law §200-aa, was introduced to outline program parameters that allow for the implementation of the state program and a localized version of the state program where applicable.

General Municipal Law §200-aa states:

1. For purposes of this section:

- (a) "fire company" shall have the same meaning as defined in section three of the volunteer firefighters' benefit law.
- (b) "training stipend" means payment of a nominal fee to a volunteer firefighter of a stipend for the completion of certain firefighter training, as identified and published by the office of fire prevention and control.
- (c) "volunteer firefighter" shall have the same meaning as defined in section three of the volunteer firefighters' benefit law.

2. The governing board of a city, town, village or fire district may, by local law, ordinance or resolution, authorize a fire company to provide training stipends to volunteer firefighters.

3. The office of fire prevention and control may make available state funds through a training stipend to volunteer firefighters for completion of certain firefighter training, as identified and published by the office of fire prevention and control.

4. No volunteer firefighter may receive a training stipend from both a volunteer fire company pursuant to subdivision two of this section and the office of fire prevention and control pursuant to subdivision three of this section for completion of the same firefighter training.

5. Any training stipend provided under this section shall not be deemed remuneration or gratuity under the volunteer firefighters' benefit law or any other provision of law and shall not interfere with or impact the volunteer status of volunteer firefighters under the volunteer firefighters' benefit law or any other provision of law.

6. The office of fire prevention and control shall promulgate rules and regulations necessary to implement the provisions of this section. N.Y. Gen. Mun. Law § 200-aa (McKinney)

The statute assigned OFPC to adopt regulations to govern the state and local stipend programs. The statute

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was made effective August 31, 2023, to allow OFPC with the time needed to draft and adopt regulations to govern the programs and guide the volunteer fire service through the process.

From a practical standpoint, it established August 31, 2023, as the start date from which attendance at training classes might qualify a volunteer firefighter for a stipend.

On November 29, 2023, OFPC published the proposed regulations in the New York State Register. That publication starts a sixty (60) day comment period for the public to comment on the regulations.

The following is the text of the regulations:

Training Stipends for Volunteer Firefighters

To promulgate rules and regulations necessary to implement State and locally funded training stipends for volunteer firefighters.

A new Part is added to read as follows:

9 NYCRR Part 215 New York State Volunteer Firefighter Training Stipend Program

9 NYCRR 215.1

9 NYCRR 215.1: Purpose

This Part provides for the implementation of payment of a training stipend to volunteer firefighters for the completion of certain training. The Office of Fire Prevention and Control is authorized to administer and award training stipends to volunteer firefighters for completion of certain firefighter training, subject to available state funding. In addition, volunteer fire departments are authorized to pay volunteer firefighters a training stipend, subject to available local funding, for the completion of certain courses, identified by the Office of Fire Prevention and Control.

9 NYCRR 215.2

9 NYCRR 215.2: Definitions

For the purposes of this Part:

(a) "Authority having Jurisdiction" shall mean the governmental body which possesses the legal responsibility for providing fire protection as follows:

- (1) for a fire district and joint fire district it shall mean the board of fire commissioners;*
- (2) for a village it shall mean the village board of trustees;*
- (3) for a fire protection district, it shall mean the town board that contracts to provide fire protection; and*
- (4) for a city it shall mean the governing body vested with such power.*

(b) "Fire Chief" shall mean the person that is the top executive rank or commanding officer of the Fire Department, including any person acting-as or temporarily performing the duties of that role.

(c) "Fire Department" shall have the same meaning as "fire company," as defined and used in section 200-aa of the General Municipal Law, and accordingly shall mean:

- (1) a fire company of a county, city, town, village or fire district fire*

department, whether or not any such company has been incorporated under any general or special law;

(2) a fire corporation incorporated under or subject to the provisions of article ten of the Membership Corporations Law, which is not included within paragraph (1) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district; or

(3) a fire corporation incorporated under, or established pursuant to the provision of, any general or special law, which is not included within paragraphs (1) and (2) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district or Indian reservation.

(d) "Local Fire Training Stipend" shall mean payment of a nominal fee to a Volunteer Firefighter of a stipend by their Fire Department for the completion of certain firefighter training, as identified and published by OFPC.

(e) "Member in Good Standing" shall mean a firefighter that is responding to emergency incidents, attends meetings and training sessions, and meets the minimum qualifications, as determined by the Authority having Jurisdiction over the Fire Department.

(f) "OFPC" shall mean the New York State Division of Homeland Security and Emergency Services Office of Fire Prevention and Control.

(g) "State Fire Training Course" shall mean a specific training course developed, sponsored, or authorized by OFPC or its designated representatives.

(h) "State Fire Training Stipend" shall mean payment of a nominal fee by OFPC to a Volunteer Firefighter of a stipend for the completion of certain firefighter training, as identified and published by OFPC.

(i) "Volunteer Firefighter" shall mean an active volunteer member of a Fire Department.

9 NYCRR 215.3

9 NYCRR 215.3: State Fire Training Stipends

(a) Firefighter Eligibility. A State Fire Training Stipend will only be provided to a Volunteer Firefighter who is a Member in Good Standing of their Fire Department.

(b) Fire Department Eligibility. Applications for a State Fire Training Stipend will only be accepted from Fire Departments that:

- (1) Submitted Fire Department incident data through the Fire Reporting System, as required by General Municipal Law section 204-d, for the prior reporting year.*
- (2) Submit Fire Department demographics to OFPC annually, using a form published by OFPC, to include the following information:*
 - (i) fire station addresses, including substations;*
 - (ii) number of interior firefighters;*
 - (iii) number of exterior firefighters;*
 - (iv) name and contact information of Fire Chief or equivalent; and*
 - (v) name and contact information of assistant/deputy chiefs or equivalent*



Fire Chief successor positions.

(c) Stipend Conditions and Requirements.

(1) A State Fire Training Stipend may only be awarded to individuals the first time they complete a qualifying course.

(2) An individual does not qualify for a State Fire Training Stipend if they repeat a course or take a course equivalent to a course for which they have already received a State Fire Training Stipend.

(3) Any Volunteer Firefighter that receives a Local Fire Training Stipend cannot receive a State Fire Training Stipend for the same or equivalent course.

(4) The qualifying course must have been completed on or after August 31, 2023.

(5) State Fire Training Stipend awards will be prioritized based on the date OFPC received a complete application, as determined by OFPC.

(6) All course equivalents must be reviewed and approved through OFPC's equivalency process prior to submission of a stipend application.

(7) Submitting an application does not create a right or entitlement to the receipt of a State Fire Training Stipend.

(8) An award of State Fire Training Stipend is subject to the availability of allocated funds.

(d) Qualifying Courses and Stipend Amounts:

(1) Basic Exterior Firefighting Operations with Hazardous Material First Responder Operations course or equivalent: in an amount to be determined by OFPC, up to \$750.

(2) Self-Contained Breathing Apparatus with Interior Firefighting Operations course or equivalent: in an amount to be determined by OFPC, up to \$1,250.

(3) Fire Officer I course or completion of the five modules of the Fire Officer I program including Company Training and Community Risk Reduction, Firefighter Health and Safety, Leadership and Supervision, Planning and Emergency Response, and Fireground Strategies and Tactics for First Arriving Companies or equivalent: in an amount to be determined by OFPC, up to \$1,000.

(4) Any additional State Fire Training Course identified and published by OFPC: in an amount to be determined by OFPC, up to \$500.

(e) Process.

(1) Applications for a State Fire Training Stipend must be submitted by the Volunteer Firefighter's Fire Department to OFPC and must include, but are not limited to, the following components:

(i) signed statement from the Fire Chief of the Fire Department, or their designee, that:

(a) the Volunteer Firefighter is an active firefighter and Member in Good Standing;

(b) the Volunteer Firefighter was authorized by the Fire Department to take the course; and

(c) the Volunteer Firefighter successfully completed the course;

(ii) a Substitute W-9 form, if not already submitted during course

registration.

(2) Applications must be submitted using the form published by OFPC.

(3) Application packets must be submitted through email to OFPC-Stipend@dhses.ny.gov.

(4) Upon receipt and verification of a complete application, OFPC will process the stipend payment directly to the Volunteer Firefighter, subject to the requirements of this Part and the availability of funds.

(f) In the event a Fire Department has not submitted an application for a State Training Stipend to OFPC within one year after completion of a qualifying course and any local requirements, the Authority Having Jurisdiction may submit an application and signed statement on behalf of a Volunteer Firefighter, subject to and in compliance with the eligibility, conditions, and process requirements listed in this section.

9 NYCRR 215.4

9 NYCRR 215.4: Local Fire Training Stipends

(a) The administration of a Local Fire Training Stipend requires authorization by the governing board of a city, town, village, or fire district, by local law, ordinance, or resolution.

(b) The governing board may establish, or require the Fire Department to establish, minimum standards or requirements for eligibility and processing of a Local Fire Training Stipend, consistent with this Part.

(c) A Local Fire Training Stipend may only be provided to a Volunteer Firefighter who is a Member in Good Standing of their Fire Department.

(d) Stipend Conditions and Requirements.

(1) The Volunteer Firefighter must have received prior authorization from their Fire Department to take the course.

(2) The qualifying course must have been completed on or after August 31, 2023.

(3) Any Volunteer Firefighter that receives a State Fire Training Stipend cannot receive a Local Fire Training Stipend for the same or equivalent course.

(4) Awards of a Local Fire Training Stipend are subject to the availability of locally allocated funds.

(5) The Fire Department must submit fire incident data through the Fire Reporting System, as required by General Municipal Law section 204-d, for the prior reporting year.

(6) The Fire Department must submit Fire Department demographics to OFPC annually, using a form published by OFPC, to include the following information:

(i) fire station addresses, including substations;

(ii) number of interior firefighters;

(iii) number of exterior firefighters;

(iv) name and contact information of Fire Chief or equivalent; and

(v) name and contact information of assistant/deputy chiefs or equivalent Fire Chief successor positions.



... TRAINING STIPEND PROGRAM CONTINUED

(e) *Qualifying Courses and Stipend Amount.* A Local Fire Training Stipend may be authorized for the completion of any State Fire Training Courses or equivalents, as determined by OFPC: up to \$500.

(f) *Verification.* A Training Stipend shall only be issued after successful completion of a State Fire Training Course, or equivalent, that is verified through the Volunteer Firefighter’s training transcript from the New York State Learning Management System.

(g) *Fire Departments must submit Local Fire Training Stipend information to OFPC annually, to include:*

- (1) *number of Volunteer Firefighters that receive a Local Fire Training Stipend during the calendar year;*
- (2) *number of Local Fire Training Stipends paid for each course, listed out by course; and*
- (3) *amount paid per course, listed out by course.* 2023 NY REG TEXT 657018 (NS).

There are some parts of this program that fire districts and fire departments should consider as they review the proposed regulations.

This program was created to improve local-level recruitment and retention. However, its effectiveness could be compromised if local entities opt out or encounter errors in the process that hinder personnel from receiving their stipends.

At the community level, there is a significant public relations component to this situation. Why isn’t our district or department involved? Should I consider joining another district or department that is actively participating?

Fire districts and departments have the choice to participate in the program; it’s not mandatory on a state level, nor are they obliged to establish a local program. However, if they opt into the state program, they must adhere to its regulations and fulfill assigned tasks. Failure to comply may result in volunteer firefighters being denied the stipends they believe they qualify for due to incomplete paperwork from the district or department.

Funding and budgeting are important parts of both the state and local programs. When the state budget funds run out, the state will stop paying stipends. No money will be available until the next budget year. We would be inclined to believe that the budget year will close out, but we are not certain.

There is a natural desire to operate the program in a manner that will cause volunteers to remain as active members of their fire department long after they have completed the training for which they will have earned a stipend. There is some suggestion that delaying payment may cause the volunteer firefighter not to leave the service until they are paid, but that delay risks the possibility that the budget funds will not be available when the delayed claim is ready to be paid. We suggest that claims for stipends be processed expeditiously by the local fire district or fire department.

However, it’s worth noting that there is a two-year window available for submitting the claim:

To qualify for a state-funded training stipend, volunteer fire departments must submit applications for the state-funded training stipend no later than two years after the successful completion of the specified training program. Qualifying courses must have been completed after August 31, 2023. Reporting paperwork must be submitted to DHSES prior to applying for a state-funded stipend. Submission of training stipend information for locally funded training stipends is required annually, subject to any other local requirements as developed and adopted by the local government.

Concerning a local program, most fire districts and fire departments did not set aside funds in their 2023 budgets [no legal basis to do so when approved in October/ November 2022] or in their 2024 budgets [no guidance available in the form of these draft regulations when budgets were due on November 7, 2023]. Some districts may have flexibility to adjust their 2024 budgets to provide for some funds for a local program, but that will involve taking money from other budget line items. It is too late to raise the budget. Funding for local training stipends should be considered in the Fall of 2024 when you develop your proposed budget for 2025.

Both the state and local programs will require the fire district and department to verify a volunteer firefighter’s eligibility for a stipend. Local authorities will bear responsibility for any inaccuracies or fraudulent submissions. It’s crucial to treat this paperwork with utmost seriousness.

The regulations define the term member in good standing [*“Member in Good Standing” shall mean a firefighter that is responding to emergency incidents, attends meetings and training sessions, and meets the minimum qualifications, as determined by the Authority having Jurisdiction over the Fire Department.*] These good standing qualifications beyond completion of a class must also be met to enable a volunteer firefighter to receive a stipend. Only a member in good standing is eligible for a stipend. Only active volunteer firefighters are eligible for these stipends. A value judgment is made in the statute and proposed regulations that only active volunteer firefighters are the focus of this recruitment and retention- based program.

Stipend eligibility comprises two facets: member eligibility and district/department eligibility. For member applications to be considered, the district and department must meet specific report filing requirements outlined in the regulations, including the following:

(b) Fire Department Eligibility. Applications for a State Fire Training Stipend will only be accepted from Fire Departments that:

(1) Submitted Fire Department incident data through the Fire Reporting System, as required by General Municipal Law section 204-d, for the prior reporting year.

(2) Submit Fire Department demographics to OFPC annually, using a form published by OFPC, to include the following information:

- (i) fire station addresses, including substations;*
- (ii) number of interior firefighters;*
- (iii) number of exterior firefighters;*
- (iv) name and contact information of Fire Chief or equivalent; and*



(v) name and contact information of assistant/deputy chiefs or equivalent Fire Chief successor positions.

It's important for districts and departments to confirm their reporting compliance status and ensure it's current. The sixty-day comment period serves as a chance for all fire districts and departments to update their report filing. Don't overlook this opportunity.

Furthermore, it's essential to recognize that a local program will be deemed invalid if the fire district and department do not maintain current status on the aforementioned report filing requirement.

Certainly, the training stipend program has evidently provided OFPC with an opportunity to enhance compliance with various reporting requirements, and the state OFPC organization is actively leveraging this chance.

Remember, OFPC decides which training classes a volunteer firefighter can attend to qualify for stipend eligibility. This rule applies to both state and local programs. If a district or department manages a local program, they cannot provide stipends for a training class that isn't on the OFPC list.

If you would like to submit a public comment about the draft regulations, we note that:

Text of proposed rule and any required statements and analyses may be obtained from: James Callahan, Division of Homeland Security and Emergency Services, 1220 Washington Ave, Bldg. 7A, Albany, NY 12226, (518) 474-6746, email: Rule.Making@dhses.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice. 2023 NY REG TEXT 657018 (NS).

The deadline to submit public comment is January 28, 2024. ▪

AFDSNY 2024 MINI SUMMITS IN WESTCHESTER AND ERIE COUNTIES

In 2024 the Board of Directors has decided to bridge the Annual Meeting and conference gap created by moving our Annual Meeting and Vendor Expo to October by scheduling a Mini Summit in both Westchester and Erie Counties.

The Mini Summit in Westchester County will be held at the Sonesta Hotel Downtown located at 66 Hale Ave, White Plains, New York 10601 from April 25th through April 27th. This event is being sponsored by MRA International. Commissioner Training will be offered on Thursday April 25th and other classes for commissioners and other fire district officers on April 26th and April 27th. The preliminary schedule stands as follows:

Thursday, April 25th

- Commissioner Training (separate fee and registration required)

Friday, April 26th

- Fire District Records Retention
- Maria McCashion - NYS Archives Records Advisor
- Recruitment & Retention Panel
- Luci Labriola-Cuffe, Deputy State Fire Administrator NYS DHSES OFPC
- Scott Davonski, Suffolk County Fire Academy Deputy Director
- John Hauschild, Sullivan County Deputy Commissioner of Public Safety & Fire Coordinator
- Catherine 'Kit' Thompson, AFDSNY Region 3 Director, Commissioner Belgium Cold Springs
- Ask the Expert Insurance Panel
- Representatives from ESIP, FDM, Hometown, and VFIS
- Psychologically Healthy Fire Department
 - Jill Holland, AFDSNY Region 10 Director, Commissioner & firefighter Kauneonga Fire District, Association of Fire Districts Sullivan County
- Cocktails with Commissioners & Chiefs
 - After dinner join us for a nightcap and round table discussion with
 - John Salka, Retired Chief FDNY
 - Thomas Richardson, Commissioner Deer Park Fire District, Retired Chief FDNY.
 - Moderated by AFDSNY President Don Corkery and 1st Vice President, Joseph Badala.

Saturday, April 27th

- Tying It All Together; An extended interactive morning session with Attorney, Greg Serio, as he explains the how and why of the relationships between Commissioners, Secretaries, Treasurers, Chiefs, and Department Officers that make a Fire District run smoothly and according to the law.

Please visit our website for more information on this event.

The Mini Summit in Erie County will be held at the South Line Fire Department #10 at 1049 French Road, Cheektowaga, New York on May 3rd, and May 4th. We are working on further planning related to this event and would ask that you visit our website to monitor further developments. Please check in at <https://afdsny.org/> to find further information on these events as well as other information releases on matters concerning the fire service and our Association.



AFDSNY 2024 ANNUAL MEETING AND VENDOR EXPO

The Association of Fire Districts of the State of New York will host our Annual Meeting and Vendor Expo at Turning Stone Resort and Casino, located at 5218 Patrick Road, Verona, New York 13478, from **Sunday**, October 20th through **Wednesday**, October 23rd in 2024. Kindly reserve these dates on your calendar. We are progressing with additional preparations for our October 2024 conference and encourage you to keep an eye on our website at https://www.afdsny.org/attendee_information.php for updates regarding this event. "

AFDSNY FIRE COMMISSIONER TRAINING FOR 2024

The officers, directors and staff of the Association of Fire Districts of the State of New York are once again working to prepare a training program for the fire commissioners, fire district officers, employees, fire department officers and members of our member districts and departments for 2024. A key element of this program is our Fire Commissioner Training Program which provides the training mandated by statute for fire commissioners that will begin to serve terms in 2024 after their election, appointment, re-election, or re-appointment. In that regard the schedule for live in-person training classes for 2024 appears below.

For 2024, we're introducing a new live in-person registration choice for our commissioner training classes. We now provide an "Audit Only" registration for \$50.00 per person. This option includes all course materials, food, and beverages. However, please note that no certificate of attendance will be issued for "Audit Only" registrations. This option caters to secretaries, treasurers, deputy treasurers, and other fire district staff who aren't obligated to take the class but wish to increase their knowledge and attend at a reduced cost.

The Association will be adding and scheduling remote class alternatives for Fire Commissioners who are not comfortable with live training or seek the convenience of remote and online training course alternatives.

Our heartfelt thanks extend to the instructors who contribute to our training programs and to the fire districts and departments that graciously provide their facilities, enabling us to deliver this crucial training to officers from our member districts. Additionally, our gratitude goes out to the volunteers at each site whose assistance allows us to offer this training.

Please refer to our website for Online Fire Commissioner Training and these remote class offerings.

You can register for the Live in-person Fire Commissioner Training

Class or Online Fire Commissioner Training Class through our website at https://www.afdsny.org/commissioner_training.php. Additionally, registration for the special remote classes will be available once they are included in the schedule.

Here is the 2024 Schedule of Live Fire Commissioner Training Classes where instructors present the material and interact with attendees. For more information about each live session, please visit the association website. "

LIVE SESSION DATES & LOCATIONS FOR 2024

- January 13, 2024 @ 8:00 A.M Thornwood Fire Department (Westchester)
 - February 3, 2024 @ 8:00 A.M Rockland County Fire Training Center (Rockland)
 - February 3, 2024 @ 8:00 A.M. North Patchogue Fire Department (Suffolk)
 - February 3, 2024 @ 8:00 A.M. Brighton Fire Department (Monroe)
 - February 24, 2024 @ 8:00 A.M. Guilderland Fire Department (Albany)
 - March 20, 2024 @ 4:00 P.M. Mattydale Fire Department (Onondaga)
 - March 23, 2024 @ 8:00 A.M. Endwell Fire Department (Broome)
 - April 6, 2024 @ 8:00 A.M. North Massapequa Fire Department (Nassau)
 - April 13, 2024 @ 8:00 A.M. Hammondsport Fire Department (Steuben)
 - April 20, 2024 @ 8:00 A.M. Watertown Fire Department (Jefferson)
U-Crest Fire District #4 (Erie)
Sullivan County Fire Training Center (Sullivan)
 - April 25, 2024 @ 8:00 A.M. AFDSNY Mini Summit Sonesta Hotel Downtown (Westchester)
 - May 4, 2024 @ 8:00 A.M. Glenham Fire Department (Dutchess)
 - May 11, 2024 @ 8:00 A.M. South Plattsburgh Fire Department (Clinton)
 - May 18, 2024 @ 8:00 A.M. Westmere Fire Department (Albany)
 - September 7, 2024 @ 8:00 A.M. Allegany Fire Department (Cattaraugus)
- Please monitor our website for the scheduling of the remote learning Fire Commissioners Training Class schedule and any changes that may be made to the live training schedule.



A QUORUM OF THE BOARD MUST BE PRESENT TO CONDUCT A PUBLIC HEARING

On several occasions, counsel has been asked if a quorum of the Board of Fire Commissioners must be present for it to conduct a public hearing. A public hearing is a proceeding conducted by a public body to hear comments from the public on some action that the public body is considering. Often, statutes mandate such proceedings for the public body. For example, each year the Board of Fire Commissioners is required to conduct a public hearing before approving the final budget for the next fiscal year. “The board of commissioners of each fire district shall hold a public hearing during the third week of October to discuss the contents of the proposed budget.” N.Y. Town Law § 181 (McKinney)

The obligation outlined by the statute isn’t individualized for members of the Board; instead, it’s collectively assigned to the Board as a whole entity. General Construction Law § 41 not only provides the definition of a “quorum” but also emphasizes that when a responsibility is mandated for the public body, a quorum of that body must assemble to fulfill that obligation.

§ 41. Quorum and majority

Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, gathered together in the presence of each other or through the use of videoconferencing, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, shall constitute a quorum and not less than a majority of the whole number may perform and exercise such power, authority or duty. For the purpose of this provision the words “whole number” shall be construed to mean the total number which the board, commission, body or other group of persons or officers would have were there no vacancies and were none of the persons or officers disqualified from acting. N.Y. General Construction Law § 41 (McKinney)

Therefore, if any statute directs a Board of Fire Commissioners as a public body to conduct a public hearing, a quorum of the Board must assemble to conduct the hearing. If less than a quorum of the Board appears at the hearing, the hearing cannot be held. •

WHEN SHOULD OUR FIRE DISTRICT OR FIRE DEPARTMENT COMMENCE AMBULANCE BILLING?

Starting on July 8, 2022, new legislation introduced in early 2022 offered fire districts and volunteer fire departments engaged in ambulance services the chance to invoice patients for these services. The idea behind this move was that by billing patients and receiving

payments from Medicare, Medicaid, and private insurance, it could potentially alleviate the tax burden on real property taxpayers. This shift would mean that real property taxpayers would no longer shoulder the entire cost linked to delivering these particular services.

The revenue generated from ambulance billing could enable fire districts and fire departments to expand the services they were offering.

Numerous fire districts and fire departments have chosen a cautious stance, adopting a “wait and see” strategy concerning this new opportunity. Some have opted not to invoice initially, while others have opted to observe and learn from the experiences of neighboring fire districts and departments that have initiated billing procedures.

Yet, the slow pace of some to embrace this opportunity has caused some concern.

The new law includes a sunset provision scheduled for 2026. This provision indicates that unless the State Legislature takes action, the authority for fire districts or other entities to bill for ambulance services under this law will cease to exist. If, by July 9, 2026, the Legislature hasn’t extended this provision, the law will expire. Such an expiration would significantly impact fire districts and fire departments that have begun invoicing and have restructured their budgets, expecting revenue from ambulance billing.

To avert such an outcome, the only viable approach involves numerous fire districts and fire departments adopting ambulance billing and demonstrating to their legislators the significance of this law and its associated revenue stream.

Some have said, “We do not want to start ambulance billing because the sunset provision concerns us. What happens if we suddenly have this revenue taken away from us?”

The simple answer is, “Join the movement.” Push for insurance companies to cover the bill for ambulance services, a cost already covered by the premiums they collect. If numerous fire districts and departments adopt this billing practice, it’s likely the Legislature and Governor won’t let the law lapse, ensuring its continuation.

This legislation isn’t a pathway for fire districts and departments to amass wealth through ambulance billing. Instead, it offers a fresh funding stream to support the expenses of providing the service and presents opportunities to enhance and broaden ambulance services within their community.

Real property taxpayers benefit from this law because they will no longer be required to carry the full financial burden for ambulance service in fire districts.

The law’s advantage for patients lies in enabling local governments to sustain these crucial services within their communities. It allows for potential improvements like hiring additional ambulance personnel, procuring enhanced ambulances and equipment, and offering more extensive training to personnel. As a fire district or volunteer fire department, you retain the choice—not an obligation—to bill for ambulance service.

Yet, if your aim is to sustain ambulance services in your community while facing escalating costs due to the need for more personnel, advanced ambulances, equipment, supplies, and

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... **AMBULANCE BILLING CONTINUED**

extensive personnel training, you might find yourself compelled to increase real property taxes. This could potentially surpass the real property tax levy cap; and shields insurance companies from the responsibility of paying their equitable share for ambulance services in your community. "

DISPLAY OF POLITICAL ADVERTISEMENTS ON PUBLIC BUILDINGS AND OTHER PLACES

Municipal officers and employees are required to refrain from actions in their official capacity that show favoritism toward political candidates. Although a municipal officer or employee retains the right, during personal non-governmental working hours, to support and vote for specific political candidates, it's crucial to avoid portraying their employer, a state or local governmental entity, as endorsing any particular candidate. The perception of favoritism arises when government officers and employees utilize government time or resources to aid a specific candidate.

Governor Hochul recently approved Chapter 666 of the Laws of 2023, introducing amendments to the General Municipal Law and the Public Buildings Law. These amendments ensure that municipal employees and officers are prohibited from allowing public buildings and other public property to be used as platforms for advertising political candidates. The newly established General Municipal Law §99-z and Public Buildings Law §147 outline these updated regulations.

This new legislation has clear consequences for fire districts and the volunteer fire service since both statutes add specific mention of volunteer firefighters:

"Municipal officer or employee" shall have the same meaning as defined pursuant to section eight hundred of the general municipal law, except that it shall also include members of any volunteer fire department which is part of such municipality. [see General Municipal Law §99-z and Public Buildings Law §147]

The legislation aims to prevent the utilization of government buildings and property in a manner that might suggest favoritism toward any candidate by the government or imply endorsement or support from municipal officers and employees in their official roles.

To view the text of the new statutes, please visit www.afdsny.org or the digital version of this edition of Fire District Affairs.

The explicit mention of volunteer firefighters in these laws serves as a reminder for fire districts and departments to be vigilant. It signals that fire personnel should maintain a clear distinction between their endorsement of political candidates and their official responsibilities. Firehouses, equipment, public property, and department activities must remain entirely separate from any

involvement in political campaigns.

To the extent that personnel wish to participate in the political process they should do so while off duty and without the support of the funds or property of the fire district and the fire department.

Officers, employees, or volunteers engaging in political fundraisers should cover their expenses personally and avoid attending such events while in uniform. It's crucial to recognize that even social activities like golf outings or dinners, when linked to political fundraisers, contribute a portion of the payments to political campaigns and are reported by the respective candidate.

What does all that mean? It means you can attend, but on your time and at your personal expense.

The new statutes speak of advertisements on government buildings and other types of government property, but there is more to this than advertisements.

This new legislation is about maintaining political neutrality within the fire district and the fire department. The timing of this legislation following prior laws concerning symbols of hate, including references to fire departments, is no coincidence. Fire departments and firehouses are part of the fabric of our communities. If we want to continue to serve and attract others to serve, we need to avoid controversy and be welcoming to every segment of our community.

CHANGES TO THE STATUTE OF LIMITATIONS GOVERNING CERTAIN UNLAWFUL DISCRIMINATION CASES

On November 17, 2023, Governor Hochul signed Chapter 656 of the Laws of 2023 into law amending Executive Law § 297 related to the statute of limitations governing certain types of discrimination claims under the Human Rights Law. The statute of limitations that applies to sexual harassment cases in employment settings had previously been increased from one year to three years when the Legislature and the Governor passed a series of laws related to preventing sexual harassment in the workplace. That series of enactments followed the Me-Too movement and changes being made in jurisdictions throughout the county. In New York State employers had to adjust to new statutory requirements for sexual harassment prevention policies and training on those policies.

Continuing in that direction, this year, the Legislature, and the Governor revised the statute that previously provided for a one-year statute of limitations for various forms of unlawful discrimination. This amendment extended the limit for these other types of discrimination cases to three years, aligning it with the three-year limitation for sexual harassment claims. Consequently, all administrative complaints related to unlawful discriminatory practices will now adhere to the three-year statute of limitations requirement.



FURTHER RESTRICTIONS ON NON-DISCLOSURE AGREEMENTS ENACTED INTO LAW

On November 17, 2023, Governor Hochul signed Chapter 658 of the Laws of 2023 into law amending the General Obligations Law [specifically, § 5-336] to make it more difficult to enforce nondisclosure agreements related to discriminatory harassment and retaliation. A nondisclosure agreement is often used as part of the settlement of a lawsuit or claim to prevent one or more of the parties to the settlement from disclosing facts and information relative to the settlement. These types of agreements have come under extensive scrutiny as state and federal laws have been amended related to claims of discrimination and procedures that govern the litigation of those claims.

Nondisclosure agreements tend to create a wall of secrecy over the actions of people in the workplace.

The amendment of this statute will prevent the enforcement of nondisclosure agreements which relate to unlawful discrimination including discriminatory harassment or retaliation. Parties to these agreements will not be able to enforce liquidated damages and other sanctions that the settlement agreements may have provided for.

These agreements are no longer favored for the settlement of discrimination complaints and that is particularly the case when a party is the state or a local government. •

AMENDMENT OF PUBLIC HEALTH LAW TO AUTHORIZE AMBULANCE SERVICES TO BILL AND RECEIVE DIRECT PAYMENTS AS NON-PARTICIPATING OR NON-PREFERRED PROVIDERS

On November 17, 2023, Governor Hochul signed Chapter 649 of the Laws of 2023 into law amending the Public Health Law to permit ambulance service providers that are non-participating or non-preferred providers of insurance carriers to receive direct payment on ambulance service bills rendered. Many fire districts and fire departments are venturing into the ambulance billing world. They now face some of the challenges that ambulance services that bill have been facing for some time.

This amendment of the Public Health Law was passed to ensure that responding ambulance service providers receive direct payment for all ambulance service transports upon submission of an invoice to the proper insurance company without the need for the responding

ambulance service to be listed as a preferred provider. In numerous instances involving ambulance services, the arrangement leads the insurance company to pay the patient directly rather than making the payment directly to the ambulance service provider. If a patient fails to then forward the payment to the ambulance service, the ambulance service is left with no alternative but to proceed directly against the patient to recover the money that should have been paid to the ambulance service.

Fire districts and fire departments implementing ambulance service billing are hopeful that they will be able to avoid placing their billing companies in such a predicament when this new law goes into effect. Ideally, they prefer insurance companies to directly settle the bill with the provider, excluding the patient from the billing process. It's crucial to acknowledge that this new law takes effect on January 1, 2025. Unfortunately, this implies that fire districts, departments, and their billing companies will confront this challenge throughout 2024, but there's hope on the horizon. •

MULTIPLE RESIDENCE LAW AMENDED TO REQUIRE OWNERS AND THEIR AGENTS TO PROVIDE NAMES AND CONTACT INFORMATION OF RESIDENTS TO EMERGENCY PERSONNEL UPON REQUEST

Governor Hochul signed Chapter 635 of the Laws of 2023 on November 17, 2023, introducing amendments to the Multiple Residence Law by incorporating new Sections 15 and 16. These statutes establish a framework necessitating owners and their representatives to disclose information to fire departments and other emergency service personnel when responding to emergencies in multiple residence units. They are mandated to furnish emergency personnel with names and contact details of individuals residing in these units. This provision aids emergency personnel in verifying the residents' locations during emergencies, facilitating smoother building evacuations when necessary.

In emergencies, determining the presence of residents within the affected structure poses a challenging task for emergency personnel. This new law offers a crucial tool for emergency responders to address this challenge effectively. •



PROCEDURE ON FOIL APPEALS: NOTICE TO COMMITTEE ON OPEN GOVERNMENT

Fire districts and volunteer fire departments fall under the scope of the Freedom of Information Law (FOIL). FOIL encompasses a series of statutes designed to grant citizens access to records held by their state and local governments. Courts have recognized that entities such as volunteer fire departments, undertaking governmental functions on behalf of a local government or state political subdivision, may also be subjected to records access under FOIL. *Westchester Rockland Newspapers, Inc. v. Kimball*, 50 N.Y.2d 575, 579, 408 N.E.2d 904, 906 (1980). All entities subject to FOIL must establish a procedure to accept and process requests for access to records.

A request for access to records must result in a timely response from the district or department records access officer. That response might be a definitive response or initially, a simple acknowledgement of receipt with a statement of when the definitive response can be expected.

If all records requested are provided, the process is completed.

If no response is provided or the response denies access regarding some record that is part of the request, the requester can file an appeal to the governing board seeking reconsideration of the denial.

The governing board then submits a written response to the appeal and provides a copy of the appeal to the Committee on Open Government.

Again, if the appeal is granted, the process essentially ends with the record(s) in question being provided to the requester.

If the appeal is denied the requester may seek court review of the denial.

Recently, the Committee on Open Government was asked to clarify how the body subject to the FOIL request and appeal fulfills its obligation to provide a copy of the appeal to the Committee. To read the verbiage of the opinion rendered which is instructive on the process, please visit www.afdsny.org or you can find it in the digital edition of this Fire District Affairs. "

AFDSNY EDWARD “NED” CARTER SCHOLARSHIPS FOR 2024

The Association of Fire Districts of the State of New York is pleased to announce that the “Ned Carter” Scholarship Program will continue in 2024. Program information and an application package are now available online for students to apply. Please check on our website at <https://www.afdsny.org/application.php> for the application and further information on the program. To file an application students will be able to use the application window at

that website address after the application form is finalized. These scholarships are available to New York State High School Seniors who will be graduating in June 2024.

AFDSNY awards four (4) scholarships a year for \$1,500 each, to graduating high school seniors who plan to attend a two (2) or four (4) year institution of higher education and will be pursuing a community service-related career. This may include but is not limited to fire service, EMS, nursing, social work, health related services, teaching, paramedic, etc.

To be considered for this honor, applications must be submitted online or postmarked no later than **March 2, 2024**.

The scholarship applicant (student) must:

- be related to a firefighter or,
- be a firefighter or,
- be related to a fire district commissioner, fire district secretary, fire district treasurer or deputy treasurer, a fire district administrator/manager or,
- be an explorer in a fire department, and
- the fire district / fire department must be a current member in “good standing” with the Association of Fire Districts of the State of New York.

Good standing means an Association dues paying member. A “dues paying member” for purposes of the scholarship application process and the awarding of a scholarship is an organization that is a current member in good standing of the Association of Fire Districts of the State of New York. Good standing is established for purposes of this process by the district or department’s AFDSNY 2024 dues having been paid by **March 1, 2024**. **Timely payment of 2024 dues will make a student in your jurisdiction eligible to be considered for a scholarship award.**

Each year a certain number of applications are rendered ineligible by the failure of a member organization to pay dues in a timely manner.

All applicants must use the AFDSNY application forms.

All applications must be received by March 2, 2024. Applications submitted via USPS must be postmarked no later than March 2, 2024.

If you have any questions, feel free to contact Director Tim Deveny who serves as the Chairperson of our Scholarship Committee. Mr. Deveny can be reached by email at tdeveny@afdsny.org or by telephone at 800-520-9594. "



NOMINATION FOR THE OFFICE OF DIRECTOR OF THE ASSOCIATION OF FIRE DISTRICTS OF THE STATE OF NEW YORK, INC.

Notice is hereby given that pursuant to Article VI, Section 9 and Article X, Section 4 and Section 6 of the By-Laws of the Association of Fire Districts of the State of New York, Inc., candidates for the position of Director of Regions 2,4,6,8, and 10 shall have submitted on their Fire District's letterhead a statement endorsing the candidate for Director and attesting to the fact that the candidate is in fact a Commissioner or holder of required fire district office and resides within said Fire District or as set forth in Town Law. Such a letter shall be submitted to the Secretary of the Association of Fire Districts of the State of New York, Inc., Tricia Schields, P.O. Box 1623, Baldwin, NY 11510 no later than December 15, 2023. The term of office will run from the 2024 Annual Meeting until the 2026 Annual Meeting. Each candidate must hold active office in a member district at the time of his or her candidacy, election, or appointment. "

C) Tricia Schields, Secretary/Treasurer

P.O. Box 1623

Baldwin, NY 11510

D) County Association President, if one exists

Refer to Article X of the Association Bylaws for the procedure to submit a written letter of nomination to the Chairperson of the Administration Committee on the first business day of the Annual Meeting. "

SECRETARY'S LETTER

The 79th Annual Meeting of the Association of Fire Districts of the State of New York, Inc. will be held from Sunday, **October 20, 2024** through Wednesday, **October 23, 2024** at the Turning Stone Casino and Resort located in Verona, New York.

The election of officers will be conducted immediately following the conclusion of the afternoon session, but no later than 4:00 p.m. on the first day of business on Monday, **October 21, 2024**. Where there is only one nomination for an office or withdrawals result in a single candidate on the ballot for that office a voice vote shall be cast at the morning session and the Secretary- Treasurer shall cast a single ballot for that candidate thus, dispensing with the need for the later election for that office.

All written nominations for officers must be submitted for any office between **August 12, 2024**, and **September 21, 2024**. The original signed copy of the nomination should be sent to the Chairperson of the Administration Committee:

A) Kit Thompson

3260 Patchett Road

Baldwinsville, New York 13027

Copies of the nomination should be sent to the following individuals:

B) Donald Corkery, President

147 Revere Drive

Sayville, NY 11782-1362

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On behalf of the Association of Fire Districts, we wish you a Happy Holidays!



It is with great sadness that we announce the passing of AFDSNY Chaplain Edwin "Ed" Brooks III

Edwin S. Brooks, 77 died peacefully at home surrounded by friends and family in Mastic on December 12, 2023. He joined the Mastic Fire Department on September 11, 1967 and has been a member for 56 years. As an important part of the first responder community as a firefighter, he also held many offices. He served as Chaplain for the Mastic Fire Department, Chaplain for the Brookhaven Town Fire Districts Officers Association, the Suffolk County Fire Districts Officers Association, and the Association of Fire Districts of the State New York. He was also a past president for the Brookhaven Town Fire District. Ed served as the District Manager/Secretary/Deputy Treasurer for the Rocky Point Fire District from October 2002, until his retirement. Ed loved serving the community, spending time with friends and family, and he was an avid Yankee fan since the age of seven, when his Grandfather took him to his first Yankee Game. He leaves his wife of 55 years, Eileen (Kelly), his son Brian and wife Mary, his daughter Kelly, her husband Scott, his 3 grandchildren, Nathan, Kayda and Avery (their Pop-Pop), and his sister, Sue. He was predeceased by his grandson, Kyle.



Rest in peace friend, we'll take it from here.